

SERVICE DATE
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Public Service Commission of Wisconsin
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PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of Madison Gas and Electric Company for Authority to Offer
a Renewable Energy Rider

3270-TE-102

FINAL DECISION

This is the Final Decision in the investigation by the Public Service Commission of Wisconsin (Commission) to consider the request of Madison Gas and Electric Company (MGE) for authority to offer a Renewable Energy Rider (RER). The proposed RER provides a framework for MGE to enter into a future contract with an existing or new customer to provide dedicated renewable generation to that specific customer at a renewable resource rate.

MGE's request is GRANTED, subject to conditions.

Background

As part of its rate case application in docket 3270-UR-121, MGE requested Commission approval of a new renewable energy program. ([PSC REF#: 286172](#).) The proposed RER is a tariff aimed at new and existing customers who seek to expand or invest in MGE's service territory and want all or a significant portion of their electricity needs supplied from renewable resources. ([PSC REF#: 286170](#) at 9-11.) The RER would allow a customer to substitute energy from a designated renewable generation facility for the energy the customer would otherwise receive under one of the standard business tariffs that are available to MGE's customers.

Organizations such as the World Wildlife Fund and World Resources Institute have worked with several large, multinational and U.S. corporations to develop a set of Corporate Renewable

Energy Buyers' Principles (Buyers' Principles). ([PSC REF#: 286170](#) at 10.)¹ These Buyers'

Principles include the following:

- Greater choice in procurement options;
- More access to cost competitive options;
- Longer and variable term contracts;
- Access to new projects that reduce emissions beyond business as usual;
- Increased access to third-party financing vehicles, as well as standardized and simplified processes, contracts, and financing for renewable energy projects; and
- Opportunities to work with utilities and regulators to expand our choices for buying renewable energy.

Multiple electric utilities in the U.S. offer renewable energy tariffs similar to MGE's proposal to their customers in response to the Buyers' Principles. Commission staff reviewed these offerings to identify the key components of the existing renewable energy tariffs, and a summary of these programs was presented in the Commission memorandum. ([PSC REF#: 304724](#).)

In its Final Decision in docket 3270-UR-121, the Commission did not approve MGE's RER as proposed. ([PSC REF#: 295447](#).) The Commission stated that it was reasonable to direct MGE to amend the proposed tariff to address a number of concerns. First, the tariff should contain language that clearly outlines the process and legal requirements for Commission approval, similar to what is included in MGE's existing Individual Service Contract tariff.² Second, MGE should remove the RER's language stating that the renewable resource rate "shall

¹ See Corporate Renewable Energy Buyers' Principles website: <http://buyersprinciples.org/principles/>.

² MGE Tariff, First Revised Vol. 3, Sheet E-30, Rate Schedule ICS.

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be calculated on a kilowatt-hour basis and added to the customers' otherwise applicable rate.”

The Commission felt it was premature to limit the structure of the renewable resource rate.

Lastly, MGE was directed to remove the RER language discussing the treatment of renewable energy credits.

The Commission further directed MGE to revise its RER, consistent with the directives listed above, and to file a new version with the Commission for approval. The Commission delegated the final approval of a revised RER to the Administrator of the Division of Energy Regulation. However, the Administrator may return a delegated matter, such as the RER, to the Commission for final review and approval should the Administrator determine it is appropriate.

On May 18, 2017, MGE filed a revised version of its proposed RER under docket 3270-TE-2017. ([PSC REF#: 303316](#).) Although Commission staff worked closely with MGE in developing the revised RER, some of the provisions of the tariff represented novel or new policy issues that required consideration by the Commission. First, MGE's proposed availability criteria was wide-ranging and would allow nearly all commercial and industrial customers to participate in the program. Second, MGE's proposed tariff did not specify whether customers can aggregate their load to qualify for the demand eligibility components of the tariff. Finally, MGE did not propose a cap on the amount of existing load that would be eligible to participate in the program. As a result, the Administrator of the Division of Energy Regulation determined that MGE's RER application should be returned to the Commission for final review and approval.

Commission staff prepared a memorandum and provided an opportunity for parties to submit comments. ([PSC REF#: 304724](#).) Comments were received by MGE, the Citizens

Utility Board of Wisconsin (CUB), RENEW Wisconsin (RENEW), Target Corporation, and jointly by Wisconsin Industrial Energy Group, Airgas, and Wisconsin Paper Council.

([PSC REF#: 305439](#), [PSC REF#: 305417](#), [PSC REF#: 305389](#), [PSC REF#: 305427](#), [PSC REF#: 305454](#), respectively.) Additionally, 13 comments were received by members of the public identifying themselves as MGE shareholders and customers.

The Commission considered this matter at its open meeting of June 29, 2017.

Findings of Fact

1. MGE filed a request for authority to offer a RER.
2. It is reasonable to authorize MGE's RER, thereby providing MGE with the opportunity to enter into a future contract with an existing or new MGE customer to provide dedicated renewable generation at a renewable resource rate.
3. It is reasonable for MGE's RER to be made available to MGE customers taking service under rate schedules Cg-4, Cg-2, Cg-6, Sp-3, and Cp-1.
4. It is reasonable to allow any MGE customer with multiple accounts to aggregate any, up to all, of its eligible accounts under a single RER contract application with MGE.
5. It is reasonable to require each MGE customer wishing to participate in the RER to submit an individual contract.
6. It is reasonable to set a program participation limit of 25 megawatts (MW) of existing load, representing roughly 5 percent of MGE's system coincident peak identified in MGE's test-year 2017 rate proceeding.

7. The Commission has and retains the authority to approve future RER contracts pursuant to Wis. Stat. § 196.192.

8. It is reasonable for MGE to report back to the Commission, within one year of issuance of this Final Decision, with information pertaining to present and future customer interest and participation in the RER.

9. With the conditions described in this Final Decision, MGE's proposed RER is reasonable and in the public interest.

Conclusions of Law

1. MGE is an investor-owned electric and natural gas public utility as defined in Wis. Stat. § 196.01(5)(a).

2. The Commission has the authority under Wis. Stat. §§ 196.02, 196.03, 196.19, 196.20, 196.22, 196.37, and 196.395 to authorize MGE to revise its tariff provisions.

3. The Commission may impose any term, condition, or requirement necessary to protect the public interest pursuant to Wis. Stat. §§ 196.02 and 196.395.

4. No hearing under Wis. Stat. § 196.20(1) or (2m) is required on this matter as the RER tariff, as conditioned by this Final Decision, does not curtail the obligation or undertaking of MGE or constitute an increase in rates to consumers.

Opinion

In general, a public utility is prohibited from entering into an individual contract to charge one customer a different rate than other customers. However, pursuant to Wis. Stat.

§ 196.192, MGE can request Commission approval for an individual contract for electric service. However, these types of individual contracts must not harm the shareholders of MGE or other nonparticipating customers. The RER proposed by MGE would set the framework under which future individual contracts will be reviewed by the Commission. By approving this framework, as conditioned by this Final Decision, the Commission is not prejudging the merits of any such individual contracts that may subsequently be reviewed by the Commission, and the Commission retains full authority to approve, approve with conditions, or deny any such contracts.

The revised filing responded to the Commission directives in the Final Decision in docket 3270-UR-121. Additionally, the revised RER included updated terms and provisions that were developed through discussions with Commission staff. Specifically, the RER requires that any service agreement filed and approved by the Commission must include the following: details about the dedicated renewable energy facility, the terms of the agreement, provisions to address early termination of a contract, and information regarding customer credit worthiness. The RER also included a provision specifying that any agreement must be approved by the Commission in accordance with Wis. Stat. § 196.192.

Customer Eligibility

As proposed, MGE's RER would be available to customers taking service under rate schedules Cg-4, Cg-2, Cg-6, Sp-3, and Cp-1. This includes any demand-metered customer with a maximum 15-minute demand in excess of 20 kilowatts (kW) (i.e., the demand eligibility of the Commercial and Industrial Time-of-Use Cg-4 customer class). Based on the eligibility criteria

proposed, more than 4,000 customers, representing over 68 percent of MGE's system wide sales, could be eligible for the program. MGE stated in its application that that it has not received any customer requests for this type of contract to date. ([PSC REF#: 303316.](#))

Commission staff expressed concerns about opening this program to such a broad group of customers. Specifically, Commission staff raised concerns about the ability of MGE to administer the program if a large number of customers wish to participate. MGE will need to negotiate a contract that complies with the tariff and Wis. Stat. § 196.192, as well as procure resources for each customer individually. Making the RER available to smaller commercial customers could significantly increase the administrative costs of the program. Moreover, applications from smaller customers would involve projects that are smaller in scale, yet still require significant time and resources to develop and administer.

MGE disagreed with Commission staff and instead favored allowing all customers in the Cg-4 class to participate in the RER program. MGE noted that a number of its customers in the Cg-4 class are signatories to the Buyers' Principles, such as Starbucks, McDonalds, Walmart, and Target. Excluding the Cg-4 customer class from the RER program would limit these customers' ability to participate in the program.

MGE also expressed concerns that removing the eligibility of Cg-4 customers from the tariff limits the ability of customers with more than one account to participate. MGE noted that it has several customers with multiple accounts—on either a contiguous property or on separate properties—ranging from Cg-4 service to Cg-6 (demand greater than 1,000 kW). By removing Cg-4 from the list of eligible customer classes, there could be situations where a company with

multiple accounts would not be able to enroll its load in the program. This could affect the ability of certain customers to meet their corporate sustainability goals.

All comments received as part of the filing expressed disagreement with Commission staff's suggestion that the RER not be made available to the Cg-4 customer class. The responses noted that smaller customers should have the same opportunity to participate as do the large commercial and industrial customers.

The Commission considered the suggestions offered by Commissions staff, as well as the responses received by MGE, interested parties, and members of the public. Given the consensus between MGE and the other commenting parties, as well as the fact that any future RER contact will have to be brought before the Commission for further consideration, the Commission was not persuaded to limit participation to the degree suggested by Commission staff. Ultimately, the Commission finds it reasonable to allow the Cg-4 customer class to participate in the RER, as proposed by MGE.

Aggregation of Load

Commission staff suggested that MGE could address concerns of excluding the Cg-4 customer class by allowing customers with multiple accounts to aggregate their demand across customer accounts for the purpose of determining eligibility. Commission staff further suggested that aggregation could be done either at contiguous properties served by multiple service locations, or at distinct properties owned by the same customer.

Commission staff reviewed similar renewable energy tariffs implemented by utilities outside of Wisconsin to determine whether other programs allow customers to aggregate their

load to meet eligibility requirements. Commission staff found examples of existing tariffs permitting a single customer with multiple locations or meters to aggregate their load.

All of the comments received supported the concept of aggregation, especially for the purposes of a customer aggregating load across multiple facilities. Comments received by MGE and RENEW expressed support for aggregation beyond the purposes of eligibility. MGE stated that aggregation should not only be allowed as a means to meet minimum demand levels, while RENEW supported allowing multiple customers—unrelated to each other—to purchase portions of the renewable energy output from the same project.

The Commission considered the merits of aggregation beyond using it as a method to allow Cg-4 customers to participate in the program. The Commission agrees that any eligible MGE customer with multiple accounts should be eligible to aggregate its accounts under a single contract. However, the Commission does not believe it is reasonable to allow different MGE customers to aggregate under the RER.

The Commission finds it is appropriate to implement the program with a more limited approach to aggregation. Moreover, the Commission concludes that it needs to gather additional information on whether there is a clear demand for aggregation before further broadening the parameters.

Cap on Existing Load

MGE's proposed RER would be available to both existing and new customers. Commission staff expressed concerns about the treatment of existing load under the program. New customers presumably would result in new load on the system, which would be served by new renewable facilities that are additive to MGE's existing generating resources. Thus,

building or procuring new dedicated renewable resources for these customers should not shift costs to other customers or result in excess capacity or stranded assets. In contrast, allowing existing customers to enroll in the program could result in shifting costs to nonparticipating customers. Commission staff noted that MGE's existing generating resources were procured, in part, to meet current needs as well as future load growth. Allowing existing customers to participate could increase the potential for stranded costs associated with existing generating facilities with those customers who are not eligible or who do not choose to participate (e.g., residential customers).

Commission staff's review of existing renewable energy tariffs found examples of utilities imposing either a cap on total energy sales or on nominated capacity for participating customers to limit the potential for shifting costs to nonparticipating customers. Commission staff suggested that the Commission may wish to consider implementing a program cap based on MGE's total system-wide peak demand. Commission staff offered a method for imposing a cap based on a percentage of the MGE's maximum coincident demand (system demand) forecast in test-year 2017 by total system and by the eligible classes only. For example, if the Commission capped participation at no more than 5.0 percent of the system peak, MGE would be allowed to enroll approximately 25 MW under the program.

MGE responded that Commission staff's concerns were unfounded as it had no intentions to shift costs to nonparticipating customers. According to MGE, the terms of the program protect against cost shifting by specifying that RER customers will be responsible for all costs associated with the service agreement up to the specified energy amount, which is not to exceed

the customer's total energy consumption. Aside from CUB, everyone else who submitted comments supported approving the RER without setting a cap on existing load.

The Commission notes that it is easier to set an initial cap, and increase the cap when necessary, then it is to forgo setting a cap and imposing one at a later date. Setting parameters too broadly can create greater risk for the utility and nonparticipating customers. The Commission finds that a program cap of 25 MW, representing roughly 5 percent of MGE's system coincident peak based on the 2017 test-year forecast, shall be enforced on existing load.

Order

1. MGE's RER is approved, subject to the revisions and conditions set forth in this Final Decision.
2. MGE's RER shall be made available to new or existing customers of MGE taking service under rate schedules Cg-4, Cg-2, Cg-6, Sp-3, and Cp-1.
3. New or existing customers of MGE belonging to the eligible rate classes with multiple accounts may aggregate any—up to all—of its eligible accounts under a single contract application.
4. New or existing customers of MGE belonging to the eligible rate classes shall not be allowed to aggregate with other MGE customers under a single contract application.
5. The RER shall include a program participation limit of 25 MW of existing load, representing roughly 5 percent of MGE's system coincident peak identified in MGE's test-year 2017 rate proceeding.

6. The RER sets the framework under which future contracts will be reviewed by the Commission pursuant to Wis. Stat. § 196.192. Any future RER contract will require Commission approval prior to the customer taking service under a renewable resource rate.
7. MGE shall report back to the Commission with information about customer interest in participation in the RER within one year of issuance of this Final Decision.
8. MGE shall submit revised tariff sheets for the revised RER.
9. This Final Decision is effective one day after the date of service.
10. Jurisdiction is retained.

Dated at Madison, Wisconsin, this 14th day of July, 2017.

By the Commission:

A handwritten signature in black ink, appearing to read "Sandra J. Paske". The signature is fluid and cursive, with a large initial 'S' and a stylized 'P'.

Sandra J. Paske
Secretary to the Commission

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See attached Notice of Rights

PUBLIC SERVICE COMMISSION OF WISCONSIN
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**NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW, THE
TIMES ALLOWED FOR EACH, AND THE IDENTIFICATION OF THE
PARTY TO BE NAMED AS RESPONDENT**

The following notice is served on you as part of the Commission's written decision. This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

PETITION FOR REHEARING

If this decision is an order following a contested case proceeding as defined in Wis. Stat. § 227.01(3), a person aggrieved by the decision has a right to petition the Commission for rehearing within 20 days of the date of service of this decision, as provided in Wis. Stat. § 227.49. The date of service is shown on the first page. If there is no date on the first page, the date of service is shown immediately above the signature line. The petition for rehearing must be filed with the Public Service Commission of Wisconsin and served on the parties. An appeal of this decision may also be taken directly to circuit court through the filing of a petition for judicial review. It is not necessary to first petition for rehearing.

PETITION FOR JUDICIAL REVIEW

A person aggrieved by this decision has a right to petition for judicial review as provided in Wis. Stat. § 227.53. In a contested case, the petition must be filed in circuit court and served upon the Public Service Commission of Wisconsin within 30 days of the date of service of this decision if there has been no petition for rehearing. If a timely petition for rehearing has been filed, the petition for judicial review must be filed within 30 days of the date of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition of the petition for rehearing by operation of law pursuant to Wis. Stat. § 227.49(5), whichever is sooner. If an *untimely* petition for rehearing is filed, the 30-day period to petition for judicial review commences the date the Commission serves its original decision.³ The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

If this decision is an order denying rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not permitted.

Revised: March 27, 2013

³ See *Currier v. Wisconsin Dep't of Revenue*, 2006 WI App 12, 288 Wis. 2d 693, 709 N.W.2d 520.